

From: Weaver, William [<mailto:wiweaver@pa.gov>]
Sent: Wednesday, March 04, 2015 12:08 PM
To: Vyas, Himanshu
Subject: RE: IESI Blue Ridge Landfill: Followup Comments from LAW regarding Aggregation

I was holding off on contacting IESI till we get your tweaked version. So as soon as you can send that, that would be great.

From: Vyas, Himanshu [<mailto:vyas.himanshu@epa.gov>]
Sent: Wednesday, February 25, 2015 9:20 AM
To: Weaver, William
Subject: RE: IESI Blue Ridge Landfill: Followup Comments from LAW regarding Aggregation

Hi Bill,

The OAQPS office just wanted me to tweak the response a bit but it won't change our answer so you can go ahead and issue the permit. The final response should be forthcoming later today—I will send it to you as soon as possible.

Himanshu Vyas
Environmental Engineer
U.S. EPA, Region III
Office of Permits and Air Toxics (3AP10)
1650 Arch Street
Philadelphia, PA 19103-2029

Phone: 215-814-2112
FAX: 215-814-2134

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From: Weaver, William [<mailto:wiweaver@pa.gov>]
Sent: Wednesday, February 25, 2015 8:37 AM
To: Vyas, Himanshu
Subject: RE: IESI Blue Ridge Landfill: Followup Comments from LAW regarding Aggregation

Himanshu,

The stuff you have sent is very helpful. Is there any reason wait for concurrence from "the other" HQ office you mentioned below, or can we proceed with what you have sent as the final answer?

From: Vyas, Himanshu [<mailto:vyas.himanshu@epa.gov>]
Sent: Wednesday, February 18, 2015 4:03 PM
To: Weaver, William
Subject: RE: IESI Blue Ridge Landfill: Followup Comments from LAW regarding Aggregation

Hi Bill,

This is my write-up on this issue; I have received concurrence from one office at HQ but not the other, for which I am trying to have a call with them setup for tomorrow. I doubt that things will change much, based on comments I received so far but take this as an interim response. Again, sorry for the delay on our part.

PPL Renewable Energy started operating an LFGE plant adjacent to IESI Blue Ridge landfill in 2012; PADEP found the sources to meet the 3-prong test for single source determination.

- 1) The two sources have different SIC codes (landfill versus electricity generation industry groupings), but PADEP believes (and we would agree) that the two sources meet the support relationship. I can also show PADEP's Southcentral Office that we have insisted that in another region in PA (Northwest region), that two sources be aggregated because they met other prongs of the test while they had different SIC codes (AK Steel and adjacently located Harsco slag handling facility).
- 2) While the two facilities are owned and operated by completely different entities and thus they are not under the control of the same person (or persons under common control), they do have established contractual relationships that bind them on the use of the landfill gas. PADEP Southcentral office's comment response on this issue is as follows (and I tend to concur):
 - a. DEP Policy No. 270-0810-006, entitled "Guidance for Performing Single Stationary Source Determinations for Oil and Gas Industries" provides that "If common control is not established by the first two ways [ownership or decision-making authority], then one should next look at whether there is a contract for service relationship between the two companies or if a support/dependency relationship exists between the two companies in order to determine if a common control relationship exists. [emphasis added]." In the case of the IESI landfill and the associated PPL Renewable Energy engine site, it is DEP's understanding that the landfill is the only source of fuel for the PPL engines. Therefore, it would preliminarily appear to us the operation of the engines is clearly dependent on the availability of gas from the landfill, and the that landfill would on that basis be considered a "support facility" for the PPL site, and would therefore need to be aggregated with the PPL site for federal air permitting purposes. Nevertheless, should IESI believe that DEP is mistaken that the landfill is the sole source of fuel for the engines, or should IESI believe that DEP should consider any other information prior to finalizing a decision in this matter, please so advise us (with documentation), so that we may further consider this matter.
- 3) The third prong is about contiguous or adjacent. IESI is falsely using precedent of *Summit Petroleum* and *NEDACAP* cases to justify its argument that it should not continue to be aggregated with IESI. IESI's comment letters to PADEP include phrases such as "on-site third party" LFGE, which leads me to believe that the PPL engines are indeed located contiguous to the IESI landfill. Besides, there seems to be a dedicated fuel line connecting the landfill's gas to the engines as their only source of fuel. Thus the federal cases have no bearing on this issue.

As such, I believe this is a "slam dunk" case for source aggregation.

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Sent: Wednesday, February 18, 2015 8:46 AM
To: Vyas, Himanshu
Cc: Ramamurthy, Krishnan; Trivedi, Virendra; Dorman, Lisa; Lambeth, Craig; Duke, Alicia
Subject: FW: IESI Blue Ridge Landfill: Followup Comments from LAW regarding Aggregation

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Any progress on this one yet?

Summary: A landfill in SCRO is protesting that they should not be aggregated with an adjacent landfill gas-to-energy facility (LGTEF) because, even though the LGTEF is apparently dependent on the landfill, nevertheless, the landfill is allegedly not at all dependent on the LGTEF. To put the landfill's argument differently, they claim that they should be treated no differently than a natural gas pipeline company supplying fuel to a power plant or a factory, in which case they assert that aggregation would not normally be required.

Priority Status: It is a high priority for DEP to promptly reach a sound final decision on this in order to finalize renewal of the landfill's Title V permit, which has been pending for some time. We are seeking guidance from EPA as to whether there is any merit to the landfill's non-aggregation arguments.

William Weaver | Air Quality Program Manager
Department of Environmental Protection
Southcentral Regional Office
909 Elmerton Avenue | Harrisburg, PA 17110
Phone: 717.705.4868 | Fax: 717.705.4830
www.depweb.pa.gov

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Sent: Wednesday, February 04, 2015 4:10 PM
To: 'Vyas, Himanshu'
Cc: Ramamurthy, Krishnan; Trivedi, Virendra; Dorman, Lisa; Lambeth, Craig; Duke, Alicia
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2.) Attachments which LAW provided to the above comments.

3.) A spreadsheet template that I have prepared which contains the text from the above letter, parsed into bite-sized comments, to facilitate ease in responding to the comments.

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You will note that I have not suggested any responses to the comments in the attached spreadsheet. It appears to me that the landfill's comments venture into deep legal waters related to national issues regarding the aggregation of air facilities. SC AQ is going to need your continued legal help in answering these comments to ensure that a consistent legal position is taken statewide regarding these matters. Note: I am CC-ing Sean and Mark in NERO due to the extended mention of the Delta Thermo case in the attached LAW comments.

From: Swanson, Joanna
Sent: Wednesday, February 25, 2015 2:47 PM
To: Vyas, Himanshu
Cc: Mastro, Donna; Smith, Kristi
Subject: IESI Blue Ridge landfill -- PPL engines aggregation

Hi Himanshu,

I wanted to write and let you know that we are expecting a significant accumulation of snow (significant by NC standards) this evening here in central NC. As a result, if you send me a draft e-mail regarding aggregation at the Blue Ridge Landfill and I don't respond, you will know why.

Thanks very much,
Joanna
919-541-5282

From: Vyas, Himanshu
Sent: Wednesday, February 18, 2015 4:08 PM
To: 'Weaver, William'
Subject: RE: IESI Blue Ridge Landfill: Followup Comments from LAW regarding Aggregation

The facts of this case may be salient and relevant to your issue:

<http://www.epa.gov/region7/air/title5/t5memos/ps2011.pdf>

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Note: I am CC-ing Sean and Mark in NERO due to the extended mention of the Delta Thermo case in the attached LAW comments.

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Vera Kornylak | Operating Permits Group Leader | Air Quality Policy Division
EPA OAQPS | Phone - 919-541-4067 | Fax - 919-541-5509 | kornylak.vera@epa.gov

From: Vyas, Himanshu

Sent: Wednesday, February 18, 2015 11:03 AM

To: Mastro, Donna; Vetter, Cheryl

Cc: Kornylak, Vera S.; Smith, Kristi

Subject: RE: IESI Blue Ridge Landfill: Followup Comments from LAW regarding Aggregation

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From: Mastro, Donna
Sent: Wednesday, February 18, 2015 10:57 AM
To: Vyas, Himanshu; Vetter, Cheryl
Cc: Kornylak, Vera S.; Smith, Kristi
Subject: RE: IESI Blue Ridge Landfill: Followup Comments from LAW regarding Aggregation

(b) (5)

Donna L. Mastro - EPA Region III – ORC - Air Branch Chief - [\(215\) 814-2777](tel:2158142777)

From: Vyas, Himanshu
Sent: Wednesday, February 18, 2015 9:56 AM
To: Vetter, Cheryl; Mastro, Donna
Cc: Kornylak, Vera S.; Smith, Kristi
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From: Vetter, Cheryl
Sent: Thursday, February 12, 2015 5:27 PM
To: Vyas, Himanshu; Mastro, Donna
Cc: Kornylak, Vera S.
Subject: RE: IESI Blue Ridge Landfill: Followup Comments from LAW regarding Aggregation

(b) (5)(b) (5)

Cheryl Vetter
U.S. Environmental Protection Agency
OAQPS/AQPD/NSRG (C504-03)
Research Triangle Park, NC 27711
Phone (919) 541-4391 Fax (919) 541-5509
Note: Positions or views expressed here do not represent official EPA policy.

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Sent: Wednesday, February 04, 2015 4:34 PM
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Subject: RE: IESI Blue Ridge Landfill: Followup Comments from LAW regarding Aggregation

(b) (5)(b) (5)(b) (5)

Kristi M. Smith * Attorney-Advisor * Air & Radiation Law Office * US EPA, Office of General Counsel *
smith.kristi@epa.gov * (202) 564-3068 *

CONFIDENTIAL communication for internal deliberations only; may contain deliberative, attorney-client, attorney work product, or otherwise privileged material; do not distribute outside EPA or DOJ.

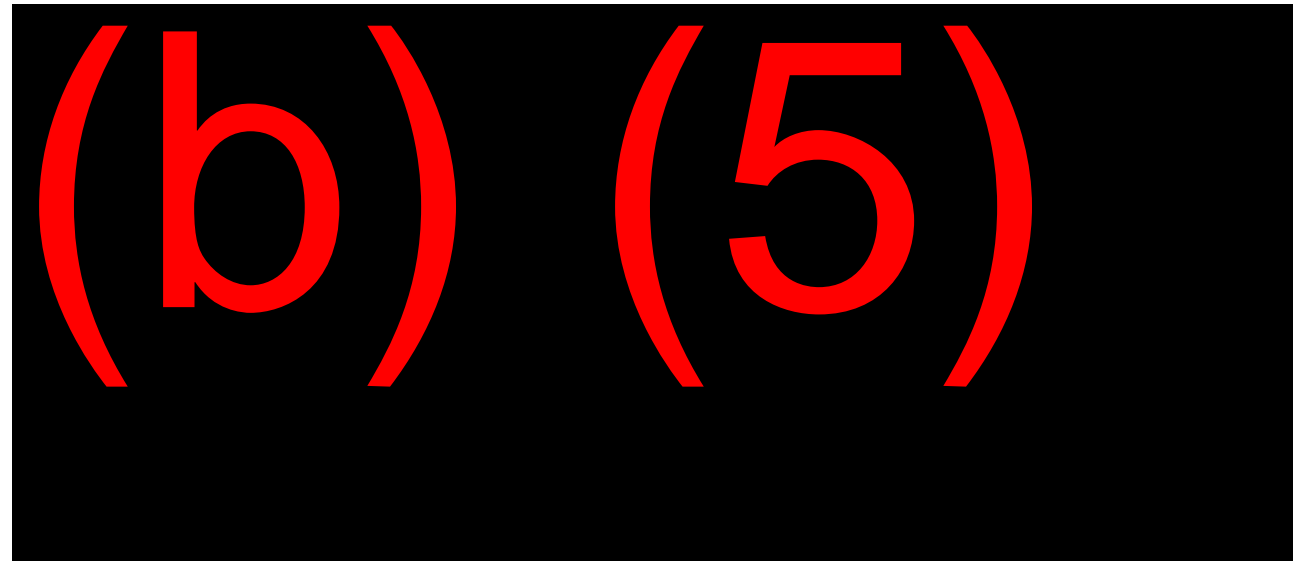
From: Smith, Kristi

Sent: Wednesday, February 18, 2015 11:10 AM

To: Vyas, Himanshu; Mastro, Donna; Vetter, Cheryl

Cc: Kornylak, Vera S.

Subject: RE: IESI Blue Ridge Landfill: Followup Comments from LAW regarding Aggregation



Kristi M. Smith * Attorney-Advisor * Air & Radiation Law Office * US EPA, Office of General Counsel *
smith.kristi@epa.gov * (202) 564-3068 *

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From: Vyas, Himanshu

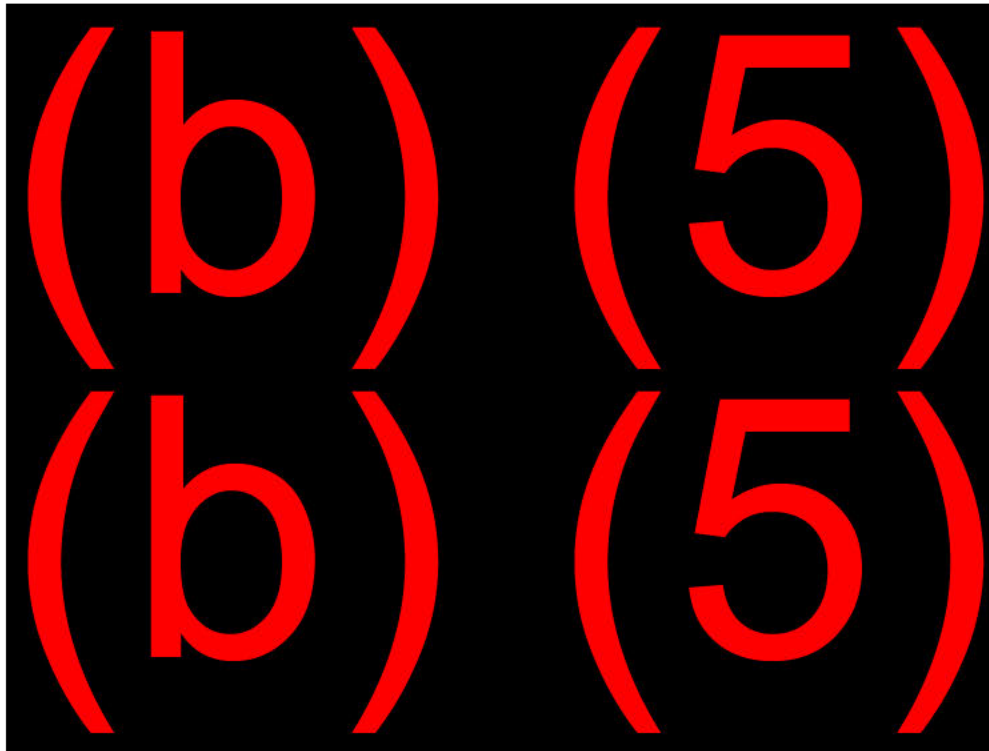
Sent: Wednesday, February 18, 2015 11:03 AM

To: Mastro, Donna; Vetter, Cheryl

Cc: Kornylak, Vera S.; Smith, Kristi

Subject: RE: IESI Blue Ridge Landfill: Followup Comments from LAW regarding Aggregation





Himanshu Vyas
Environmental Engineer
U.S. EPA, Region III
Office of Permits and Air Toxics (3AP10)
1650 Arch Street
Philadelphia, PA 19103-2029

Phone: 215-814-2112
FAX: 215-814-2134

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From: Mastro, Donna
Sent: Wednesday, February 18, 2015 10:57 AM
To: Vyas, Himanshu; Vetter, Cheryl
Cc: Kornylak, Vera S.; Smith, Kristi
Subject: RE: IESI Blue Ridge Landfill: Followup Comments from LAW regarding Aggregation



(b) (5)(b) (5)(b) (5)

Donna L. Mastro - EPA Region III – ORC - Air Branch Chief - [\(215\) 814-2777](tel:2158142777)

From: Vyas, Himanshu

Sent: Wednesday, February 18, 2015 9:56 AM

To: Vetter, Cheryl; Mastro, Donna

Cc: Kornylak, Vera S.; Smith, Kristi

Subject: RE: IESI Blue Ridge Landfill: Followup Comments from LAW regarding Aggregation

Importance: High

(b) (5)
(b) (5)
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From: Vetter, Cheryl

Sent: Thursday, February 12, 2015 5:27 PM

To: Vyas, Himanshu; Mastro, Donna

Cc: Kornylak, Vera S.

Subject: RE: IESI Blue Ridge Landfill: Followup Comments from LAW regarding Aggregation

(b) (5) (b) (5)

Cheryl Vetter
U.S. Environmental Protection Agency
OAQPS/AQPD/NSRG (C504-03)
Research Triangle Park, NC 27711
Phone (919) 541-4391 Fax (919) 541-5509
Note: Positions or views expressed here do not represent official EPA policy.

From: Vyas, Himanshu
Sent: Wednesday, February 04, 2015 4:34 PM
To: Mastro, Donna; Vetter, Cheryl
Subject: FW: IESI Blue Ridge Landfill: Followup Comments from LAW regarding Aggregation

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From: Weaver, William [<mailto:wiweaver@pa.gov>]
Sent: Wednesday, February 04, 2015 4:10 PM
To: Vyas, Himanshu
Cc: Ramamurthy, Krishnan; Trivedi, Virendra; Dorman, Lisa; Lambeth, Craig; Duke, Alicia
Subject: RE: IESI Blue Ridge Landfill: Followup Comments from LAW regarding Aggregation

See attached for what our permit reviewer, Hilary Le, sent to IESI, which then resulted in the response from LAW. The key would be Line 9 (Response 8) in the spreadsheet that is included with the attached email, which is what we originally offered to IESI as our rationale for requiring aggregation.

From: Vyas, Himanshu [<mailto:vyas.himanshu@epa.gov>]
Sent: Wednesday, February 04, 2015 3:54 PM
To: Weaver, William; Trivedi, Virendra
Cc: Ramamurthy, Krishnan
Subject: RE: IESI Blue Ridge Landfill: Followup Comments from LAW regarding Aggregation

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It would be good to have SCRO's original aggregation determination analysis and related material if possible.

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Cc: Ramamurthy, Krishnan
Subject: RE: IESI Blue Ridge Landfill: Followup Comments from LAW regarding Aggregation

Himanshu,

Would it be possible to get us a response by next Wednesday?

From: Trivedi, Virendra
Sent: Wednesday, February 04, 2015 1:38 PM
To: Vyas, Himanshu
Cc: Ramamurthy, Krishnan; Weaver, William
Subject: RE: IESI Blue Ridge Landfill: Followup Comments from LAW regarding Aggregation

Himanshu,

Spreadsheet was a summary of the letter that Bill Weaver prepared. I think, the company's response letter is the one you need.

VT

From: Vyas, Himanshu [<mailto:vyas.himanshu@epa.gov>]
Sent: Wednesday, February 04, 2015 11:39 AM
To: Trivedi, Virendra
Cc: Ramamurthy, Krishnan; Weaver, William
Subject: RE: IESI Blue Ridge Landfill: Followup Comments from LAW regarding Aggregation

How soon do you need a response? I imagine as soon as possible, but it helps to order priorities especially with HQ folks. I am also out of the office Friday and Monday, but hopefully we can have an internally-concurred response back by next week.

Thanks,

Himanshu Vyas
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From: Trivedi, Virendra [<mailto:vtrivedi@pa.gov>]
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Cc: Ramamurthy, Krishnan; Weaver, William
Subject: FW: IESI Blue Ridge Landfill: Followup Comments from LAW regarding Aggregation

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1.) Followup comments in a letter dated 10/10/14 from Land Air Water Legal Solutions, LLC regarding aggregation of the IESI Blue Ridge Landfill and the adjacent PPL Renewable Energy landfill gas-to-energy facility. DEP has proposed to continue aggregation of the facilities as part of a pending Title V permit renewal action for the landfill. The landfill vigorously objects to this.

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You will note that I have not suggested any responses to the comments in the attached spreadsheet. It appears to me that the landfill's comments venture into deep legal waters related to national issues regarding the aggregation of air facilities. SC AQ is going to need your continued legal help in answering these comments to ensure that a consistent legal position is taken statewide regarding these matters. Note: I am CC-ing Sean and Mark in NERO due to the extended mention of the Delta Thermo case in the attached LAW comments.

From: Vyas, Himanshu
Sent: Wednesday, February 18, 2015 9:57 AM
To: 'Weaver, William'
Cc: Ramamurthy, Krishnan; Trivedi, Virendra; Dorman , Lisa; Lambeth, Craig; Duke, Alicia
Subject: RE: IESI Blue Ridge Landfill: Followup Comments from LAW regarding Aggregation

Hi Bill,

Due to holiday and weather, our HQ office has been a bit slow on this turnaround. I have asked for their concurrence today. I will respond in detail once I get it. I apologize for the delay.

Thanks,

Himanshu Vyas
Environmental Engineer
U.S. EPA, Region III
Office of Permits and Air Toxics (3AP10)
1650 Arch Street
Philadelphia, PA 19103-2029

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From: Weaver, William [<mailto:wiweaver@pa.gov>]
Sent: Wednesday, February 18, 2015 8:46 AM
To: Vyas, Himanshu
Cc: Ramamurthy, Krishnan; Trivedi, Virendra; Dorman , Lisa; Lambeth, Craig; Duke, Alicia
Subject: FW: IESI Blue Ridge Landfill: Followup Comments from LAW regarding Aggregation

Himanshu,

Any progress on this one yet?

Summary: A landfill in SCRO is protesting that they should not be aggregated with an adjacent landfill gas-to-energy facility (LGTEF) because, even though the LGTEF is apparently dependent on the landfill, nevertheless, the landfill is allegedly not at all dependent on the LGTEF. To put the landfill's argument differently, they claim that they should be treated no differently than a natural gas pipeline company supplying fuel to a power plant or a factory, in which case they assert that aggregation would not normally be required.

Priority Status: It is a high priority for DEP to promptly reach a sound final decision on this in order to finalize renewal of the landfill's Title V permit, which has been pending for some time. We are seeking guidance from EPA as to whether there is any merit to the landfill's non-aggregation arguments.

William Weaver | Air Quality Program Manager
Department of Environmental Protection
Southcentral Regional Office
909 Elmerton Avenue | Harrisburg, PA 17110
Phone: 717.705.4868 | Fax: 717.705.4830
www.depweb.pa.gov

From: Weaver, William
Sent: Wednesday, February 04, 2015 4:10 PM
To: 'Vyas, Himanshu'
Cc: Ramamurthy, Krishnan; Trivedi, Virendra; Dorman, Lisa; Lambeth, Craig; Duke, Alicia
Subject: RE: IESI Blue Ridge Landfill: Followup Comments from LAW regarding Aggregation

See attached for what our permit reviewer, Hilary Le, sent to IESI, which then resulted in the response from LAW. The key would be Line 9 (Response 8) in the spreadsheet that is included with the attached email, which is what we originally offered to IESI as our rationale for requiring aggregation.

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Cc: Ramamurthy, Krishnan
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It would be good to have SCRO's original aggregation determination analysis and related material if possible.

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How soon do you need a response? I imagine as soon as possible, but it helps to order priorities especially with HQ folks. I am also out of the office Friday and Monday, but hopefully we can have an internally-concurred response back by next week.

Thanks,

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From: Mastro, Donna
Sent: Friday, February 13, 2015 1:29 PM
To: Vyas, Himanshu
Subject: RE: IESI Blue Ridge Landfill: Followup Comments from LAW regarding Aggregation

(b) (5)(b) (5)(b) (5)(b) (5)

Donna L. Mastro - EPA Region III – ORC - Air Branch Chief - [\(215\) 814-2777](tel:2158142777)

From: Vyas, Himanshu
Sent: Friday, February 13, 2015 1:11 PM
To: Mastro, Donna
Subject: RE: IESI Blue Ridge Landfill: Followup Comments from LAW regarding Aggregation

(b) (5)(b) (5)(b) (5)(b) (5)

Himanshu Vyas
Environmental Engineer
U.S. EPA, Region III
Office of Permits and Air Toxics (3AP10)
1650 Arch Street
Philadelphia, PA 19103-2029

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From: Mastro, Donna
Sent: Friday, February 13, 2015 12:21 PM
To: Vyas, Himanshu
Subject: Re: IESI Blue Ridge Landfill: Followup Comments from LAW regarding Aggregation

(b) (5)(b) (5)(b) (5)(b) (5)(b) (5)

Sent from my iPhone

On Feb 13, 2015, at 11:54 AM, Vyas, Himanshu <vyas.himanshu@epa.gov> wrote:

(b) (5)(b) (5)(b) (5)

Himanshu Vyas
Environmental Engineer
U.S. EPA, Region III
Office of Permits and Air Toxics (3AP10)
1650 Arch Street
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Sent: Wednesday, February 04, 2015 12:55 PM
To: 'Trivedi, Virendra'
Cc: Ramamurthy, Krishnan; Weaver, William; Mastro, Donna
Subject: RE: IESI Blue Ridge Landfill: Followup Comments from LAW regarding Aggregation



Himanshu Vyas
Environmental Engineer
U.S. EPA, Region III
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Sent: Wednesday, February 04, 2015 12:32 PM
To: Vyas, Himanshu; Vetter, Cheryl; Smith, Kristi
Cc: campbell, dave
Subject: RE: IESI Blue Ridge Landfill: Followup Comments from LAW regarding Aggregation

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Donna L. Mastro - EPA Region III – ORC - Air Branch Chief - [\(215\) 814-2777](tel:2158142777)

From: Vyas, Himanshu
Sent: Wednesday, February 04, 2015 11:50 AM
To: Vetter, Cheryl; Mastro, Donna; Smith, Kristi
Cc: campbell, dave
Subject: FW: IESI Blue Ridge Landfill: Followup Comments from LAW regarding Aggregation

I'm adding Kristi Smith to this email since she may likely be very interested in how *Summit* and is being used by the landfill in its comments to reason why it shouldn't be aggregated with the lfg-fired engines.

Himanshu Vyas
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Phone: 215-814-2112
FAX: 215-814-2134

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From: Trivedi, Virendra [<mailto:vtrivedi@pa.gov>]
Sent: Wednesday, February 04, 2015 11:09 AM
To: Vyas, Himanshu
Cc: Ramamurthy, Krishnan; Weaver, William
Subject: FW: IESI Blue Ridge Landfill: Followup Comments from LAW regarding Aggregation

Krish has requested to forward these documents to you.

1.) Followup comments in a letter dated 10/10/14 from Land Air Water Legal Solutions, LLC regarding aggregation of the IESI Blue Ridge Landfill and the adjacent PPL Renewable Energy landfill gas-to-energy facility. DEP has proposed to continue aggregation of the facilities as part of a pending Title V permit renewal action for the landfill. The landfill vigorously objects to this.

2.) Attachments which LAW provided to the above comments.

3.) A spreadsheet template that I have prepared which contains the text from the above letter, parsed into bite-sized comments, to facilitate ease in responding to the comments.

4.) The email that SCRO sent on 10/7/14 to the landfill's original comments, which then triggered the 10/10/14 response from LAW.

You will note that I have not suggested any responses to the comments in the attached spreadsheet. It appears to me that the landfill's comments venture into deep legal waters related to national issues regarding the aggregation of air facilities. SC AQ is going to need your continued legal help in answering these comments to ensure that a consistent legal position is taken statewide regarding these matters. Note: I am CC-ing Sean and Mark in NERO due to the extended mention of the Delta Thermo case in the attached LAW comments.

From: Vyas, Himanshu
Sent: Wednesday, February 04, 2015 11:39 AM
To: 'Trivedi, Virendra'
Cc: Ramamurthy, Krishnan; Weaver, William
Subject: RE: IESI Blue Ridge Landfill: Followup Comments from LAW regarding Aggregation

How soon do you need a response? I imagine as soon as possible, but it helps to order priorities especially with HQ folks. I am also out of the office Friday and Monday, but hopefully we can have an internally-concurred response back by next week.

Thanks,

Himanshu Vyas
Environmental Engineer
U.S. EPA, Region III
Office of Permits and Air Toxics (3AP10)
1650 Arch Street
Philadelphia, PA 19103-2029

Phone: 215-814-2112
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